



Reprinted
March 25, 2005

ENGROSSED SENATE BILL No. 242

DIGEST OF SB 242 (Updated March 24, 2005 2:48 pm - DI 102)

Citations Affected: IC 3-8; IC 3-10; IC 3-11.7; IC 3-12; IC 9-16; IC 9-29; IC 9-30.

Synopsis: Driver's licenses and state identification cards. Requires all full service license branches to be open on the day before election day and on election day to issue driver's licenses and state identification cards. Requires all full service license branches to be open extra hours on the Saturday following an election day to issue driver's licenses and state identification cards. Provides for an additional seven days for the certification of election results and the filing of recounts or contests. Permits a court to waive a driver's license reinstatement fee if: (1) the person who owes the fee is indigent; (2) the person who owes the fee has proof of future financial responsibility; and (3) waiver of the fee is appropriate in light of the person's character and the nature and circumstances surrounding the suspension of the person's license.

Effective: July 1, 2005.

Long, Howard

(HOUSE SPONSORS — MESSER, CRAWFORD)

January 6, 2005, read first time and referred to Committee on Judiciary.
February 17, 2005, amended, reported favorably — Do Pass.
February 21, 2005, read second time, ordered engrossed.
February 22, 2005, engrossed.
February 28, 2005, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

March 8, 2005, read first time and referred to Committee on Roads and Transportation.
March 21, 2005, amended, reported — Do Pass.
March 24, 2005, read second time, amended, ordered engrossed.

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Reprinted
March 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 242

A BILL FOR AN ACT to amend the Indiana Code concerning
motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-8-3-9 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2005]: Sec. 9. Each circuit court clerk shall, not
3 later than noon **on the second** Monday after the day the primary
4 election is held, send to the election division by certified mail or hand
5 delivery one (1) complete copy of all returns for presidential
6 candidates. The clerk shall state the number of votes received by each
7 candidate in each congressional district within the county.

8 SECTION 2. IC 3-8-4-5 IS AMENDED TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) This section applies to each
10 political party that elects delegates to the party's state convention at a
11 primary election.

12 (b) Each circuit court clerk, not later than noon **on the second**
13 Monday after a primary election, shall furnish the election division
14 with a complete list of all delegates elected at the primary election to
15 the state convention of a political party. The list must include the
16 address of each delegate and the United States congressional district in
17 which each delegate resides.

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SECTION 3. IC 3-8-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Each circuit court clerk, not later than noon on the **first second** Monday after a primary election conducted in a year in which a general election will be held, shall furnish the election division with a complete list of all:

- (1) candidates nominated; and
 - (2) state convention delegates elected;
- at the primary election.

(b) The list must include the address of each candidate and delegate and the United States congressional district in which each candidate and delegate resides.

SECTION 4. IC 3-10-1-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 33. (a) The county election board shall also make an additional duplicate showing the votes cast for each candidate required to file a declaration of candidacy with the election division under IC 3-8-2.

(b) The circuit court clerk shall, not later than noon on the **second** Monday following the primary election, send to the election division by certified mail or hand deliver to the election division one (1) complete copy of all returns for these candidates.

SECTION 5. IC 3-11.7-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) After the close of the polls, provisional ballots shall be counted as provided in this chapter.

(b) Notwithstanding IC 3-5-4-1.5 and any legal holiday observed under IC 1-1-9, all provisional ballots must be counted by not later than noon on the **second** Monday following the election.

SECTION 6. IC 3-12-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. Not later than noon **on the second** Monday after the county election board certifies the election results under section 9 of this chapter, the circuit court clerk shall furnish to the county chairman of each political party a copy of the statement.

SECTION 7. IC 3-12-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Whenever a candidate is elected to a local office that is commissioned by the governor under IC 4-3-1-5, the circuit court clerk shall prepare a statement under the clerk's seal specifying the number of votes received by each candidate for that office.

(b) The statement prepared under subsection (a) must also include the number of votes cast for and against the following:

- (1) The ratification of a state constitutional amendment submitted

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to the electorate.

(2) The retention of a justice of the supreme court or a judge of the court of appeals or tax court.

(3) Each candidate who was declared elected by the county election board under IC 3-12-4-9.

(c) The clerk shall send or hand deliver the statement to the election division not later than noon on the **second** Monday following election day.

(d) The election division shall tabulate the votes received under this section. Not later than the ~~second~~ **third** Friday after the election, the secretary of state shall issue a certificate certifying the following:

(1) Each state constitutional amendment ratified or rejected.

(2) Each justice or judge retained or removed.

(e) The election division shall provide a copy of a certificate described by:

(1) subsection (d)(1) to the chief justice of the Indiana supreme court and the director of the office of code revision of the legislative services agency; and

(2) subsection (d)(2) to the chief justice of the state.

(f) The election division shall provide a copy of all statements received under this section to the office.

SECTION 8. IC 3-12-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Not later than noon on the **second** Monday following an election for governor and lieutenant governor, each circuit court clerk shall prepare a certified statement under the clerk's seal showing the number of votes each candidate received. The clerk shall transmit the statement to the election division. The election division shall deliver:

(1) the statement to the speaker of the house of representatives before the date described in subsection (b); and

(2) a copy of each statement to the office.

(b) The house of representatives and the senate shall meet in joint convention not later than the date specified in Article 5, Section 9 of the Constitution of the State of Indiana for the commencement of the term of the governor and the lieutenant governor to hear the canvass of votes cast for governor and lieutenant governor.

(c) The joint convention shall act to resolve any:

(1) tie vote, as required under Article 5, Section 5 of the Constitution of the State of Indiana; or

(2) contest under Article 5, Section 6 of the Constitution of the State of Indiana.

(d) The joint rules that governed the house of representatives and

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senate before the general election govern the joint convention until those rules are amended as provided in those rules.

(e) After resolving any tie or contest, the presiding officer of the joint convention shall certify to the convention that the individuals receiving the most votes according to the canvass have been elected governor and lieutenant governor.

SECTION 9. IC 3-12-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Not later than noon on the **second** Monday following an election, each circuit court clerk shall prepare a certified statement under the clerk's seal of the number of votes received by each candidate for:

- (1) federal office;
- (2) state office;
- (3) legislative office; and
- (4) a local office for which a declaration of candidacy must be filed with the election division under IC 3-8-2.

(b) The clerk shall send the statements by certified mail, return receipt requested, or hand deliver the statements to the election division.

(c) The election division shall provide a copy of each statement to the office.

SECTION 10. IC 3-12-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) As soon as practical, but no later than noon on the **second** Monday following an election for a legislative office, each circuit court clerk shall:

- (1) prepare a certified statement under the clerk's seal specifying the number of votes received in the county by each candidate for legislative office; and
- (2) send the statement by certified mail, return receipt requested, or hand deliver the statement to the election division.

(b) The election division shall provide a copy of each statement to the office.

SECTION 11. IC 3-12-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A candidate who desires a recount of votes must file a verified petition no later than noon ~~seven (7)~~ **fourteen (14)** days after election day.

(b) A county chairman who is entitled to and desires a recount of votes must file a verified petition not later than noon ~~ten (10)~~ **seventeen (17)** days after election day.

(c) The petition must be filed in the circuit or superior court of each county in which is located a precinct in which the individual desires a recount.

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SECTION 12. IC 3-12-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A candidate who desires to contest an election or a nomination under this chapter must file a verified petition with the circuit court clerk of the county that contains the greatest percentage of the population of the election district no later than noon ~~seven (7)~~ **fourteen (14)** days after election day.

(b) A county chairman who is entitled to and desires to contest an election or a nomination under this chapter must file a verified petition with the circuit court clerk of the county that contains the greatest percentage of the population of the election district not later than noon ~~ten (10)~~ **seventeen (17)** days after election day.

(c) A petition for a contest of an election in different municipalities, whether in the same court of the county or not, may not be consolidated.

SECTION 13. IC 3-12-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A candidate who desires:

(1) a recount of votes cast for a nomination or election subject to this chapter; or

(2) to contest a nomination subject to this chapter or the election of a state office other than governor or lieutenant governor; must file a verified petition with the election division not later than noon ~~seven (7)~~ **fourteen (14)** days after election day.

(b) A state or county chairman who is entitled to and desires to file a petition for a recount or contest under this chapter must file a verified petition with the election division not later than noon ~~ten (10)~~ **seventeen (17)** days after election day.

SECTION 14. IC 9-16-1-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) **On each general, municipal, primary, and special election day (as defined in IC 3-5-1-2), all full service license branches must remain open from 6:00 a.m., local time, to 6:00 p.m., local time, solely for the purpose of issuing driver's licenses and state identification cards under IC 9-24.**

(b) **The commission shall designate another day as a holiday for license branch personnel required to work on an election day holiday.**

(c) **On the day before each general, municipal, primary, and special election day (as defined in IC 3-5-1-2), all full service license branches must remain open from 8:30 a.m., local time, to 8:00 p.m., local time, solely for the purpose of issuing driver's licenses**

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and state identification cards under IC 9-24.

(d) The commission shall:

(1) designate another day as compensatory time off; or

(2) authorize overtime pay;

for license branch personnel required to work on the day before an election day.

(e) On the Saturday following each general, municipal, primary, and special election day (as defined in IC 3-5-1-2), all full service license branches must remain open from 8:30 a.m., local time, to 5:30 p.m., local time. To the extent that these hours exceed the regular Saturday business hours of a license branch, the extra hours that a license branch must remain open are reserved solely for the purpose of issuing driver's licenses and state identification cards under IC 9-24.

SECTION 15. IC 9-16-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The commission may develop a separate personnel system for employees of the commission who are assigned to be managers and employees of commission license branches. The system may establish the rights, privileges, powers, and duties of these employees, including a license branch pay scale and benefit package. If the commission does not develop and adopt a license branch personnel system, those employees are subject to the state personnel system under IC 4-15-1.8, **except as provided in IC 9-16-1-7.**

SECTION 16. IC 9-29-10-2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A person who is indigent may file a petition for waiver of a fee for reinstatement of the person's driver's license in a criminal court of record in the person's county of residence.

(b) The clerk of the court shall forward a copy of the petition to the prosecuting attorney of the county and to the bureau. The prosecuting attorney may appear and be heard on the petition.

(c) The bureau is not a party in a proceeding under this chapter.

SECTION 17. IC 9-29-10-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Upon its own motion, or upon a petition filed by a person under section 2 of this chapter, a court may waive a fee for reinstatement of a driver's license described in section 1 of this chapter if the court finds that:

(1) the person who owes the fee for reinstatement of the driver's license:

(A) is indigent; and

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1 **(B) has presented proof of future financial responsibility;**
 2 **and**
 3 **(2) waiver of the fee for reinstatement of the driver's license**
 4 **is appropriate in light of the person's character and the**
 5 **nature and circumstances surrounding the person's license**
 6 **suspension.**

7 **(b) If a court waives a fee for reinstatement of a driver's license**
 8 **under this section, the court may impose other reasonable**
 9 **conditions on the person.**

10 **(c) If a court waives a fee for reinstatement of a driver's license**
 11 **under this section, the clerk shall forward a copy of the court's**
 12 **order to the bureau.**

13 SECTION 18. IC 9-30-5-11 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) If a court grants
 15 a person probationary driving privileges under section 12 of this
 16 chapter, the person may operate a vehicle only as follows:

- 17 (1) To and from the person's place of employment.
 18 (2) For specific purposes in exceptional circumstances.
 19 (3) To and from a court-ordered treatment program.

20 (b) If the court grants the person probationary driving privileges
 21 under section 12(a) of this chapter, that part of the court's order
 22 granting probationary driving privileges does not take effect until the
 23 person's driving privileges have been suspended for at least thirty (30)
 24 days under IC 9-30-6-9.

25 (c) The court shall notify a person who is granted probationary
 26 driving privileges of the following:

- 27 (1) That the probationary driving period commences when the
 28 bureau issues the probationary license.
 29 (2) That the bureau may not issue a probationary license until the
 30 bureau receives a reinstatement fee from the person, **if**
 31 **applicable**, and the person otherwise qualifies for a license.

32 SECTION 19. IC 9-30-6-9 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) This section does
 34 not apply if an ignition interlock device order is issued under section
 35 8(d) of this chapter.

36 (b) If the affidavit under section 8(b) of this chapter states that a
 37 person refused to submit to a chemical test, the bureau shall suspend
 38 the driving privileges of the person:

- 39 (1) for one (1) year; or
 40 (2) until the suspension is ordered terminated under IC 9-30-5.

41 (c) If the affidavit under section 8(b) of this chapter states that a
 42 chemical test resulted in prima facie evidence that a person was

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intoxicated, the bureau shall suspend the driving privileges of the person:

- (1) for one hundred eighty (180) days; or
- (2) until the bureau is notified by a court that the charges have been disposed of;

whichever occurs first.

(d) Whenever the bureau is required to suspend a person's driving privileges under this section, the bureau shall immediately do the following:

- (1) Mail a notice to the person's last known address that must state that the person's driving privileges will be suspended for a specified period, commencing:

- (A) five (5) days after the date of the notice; or

- (B) on the date the court enters an order recommending suspension of the person's driving privileges under section 8(c) of this chapter;

whichever occurs first.

- (2) Notify the person of the right to a judicial review under section 10 of this chapter.

(e) Notwithstanding IC 4-21.5, an action that the bureau is required to take under this article is not subject to any administrative adjudication under IC 4-21.5.

(f) If a person is granted probationary driving privileges under IC 9-30-5 and the bureau has not received the probable cause affidavit described in section 8(b) of this chapter, the bureau shall suspend the person's driving privileges for a period of thirty (30) days. After the thirty (30) day period has elapsed, the bureau shall, upon receiving a reinstatement fee, **if applicable**, from the person who was granted probationary driving privileges, issue the probationary license if the person otherwise qualifies for a license.

(g) If the bureau receives an order granting probationary driving privileges to a person who has a prior conviction for operating while intoxicated, the bureau shall do the following:

- (1) Issue the person a probationary license and notify the prosecuting attorney of the county from which the order was received that the person is not eligible for a probationary license.

- (2) Send a certified copy of the person's driving record to the prosecuting attorney.

The prosecuting attorney shall, in accordance with IC 35-38-1-15, petition the court to correct the court's order. If the bureau does not receive a corrected order within sixty (60) days, the bureau shall notify the attorney general, who shall, in accordance with IC 35-38-1-15,

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1 petition the court to correct the court's order.

2 SECTION 20. IC 9-30-11-6 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The bureau shall
4 reinstate motor vehicle registration that is suspended under this chapter
5 if the following occur:

6 (1) Any person presents the bureau or a bureau license branch
7 with adequate proof that all unpaid judgments with respect to the
8 motor vehicle have been paid.

9 (2) A reinstatement fee under IC 9-29 is paid to the bureau, **if**
10 **applicable.**

11 SECTION 21. IC 9-30-12-2 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The bureau may:

13 (1) reinstate a license or permit revoked or suspended under
14 section 1 of this chapter; or

15 (2) revalidate a title or registration that has been invalidated under
16 section 3 of this chapter;

17 if the obligation has been satisfied, including the payment of service,
18 collection, and reinstatement fees, **if applicable.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 242, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 29, delete "the circuit" and insert "**a criminal**".

Page 2, line 29, after "court" insert "**of record**".

Page 2, line 31, delete "circuit".

Page 2, line 38, delete "A" and insert "**Upon its own motion, or upon a petition filed by a person under section 2 of this chapter, a**".

Page 3, line 30, delete "circuit".

and when so amended that said bill do pass.

(Reference is to SB 242 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 11, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred Senate Bill 242, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 24.

Page 2, line 28, delete "suspension, modification, or".

Page 2, line 38, delete "suspend,".

Page 2, line 39, delete "modify, or".

Page 2, line 39, delete "all or part of".

Page 3, line 4, delete "suspension, modification, or".

Page 3, line 4, delete "all or part of".

Page 3, line 8, delete "A" and insert **"If a court waives a fee for reinstatement of a driver's license under this section, the"**.

Page 3, line 8, delete ":".

Page 3, delete lines 9 through 11.

Page 3, line 12, delete "(2)".

Page 3, run in lines 8 through 12.

Page 3, line 13, delete "suspends, modifies, or".

Page 3, delete lines 16 through 39.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 242 as printed February 18, 2005.)

DUNCAN, Chair

Committee Vote: yeas 9, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 242 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-16-1-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. (a) On each general, municipal, primary, and special election day (as defined in IC 3-5-1-2), all full service license branches must remain open from 6:00 a.m., local time, to 6:00 p.m., local time, solely for the purpose of issuing driver's licenses and state identification cards under IC 9-24.**

(b) The commission shall designate another day as a holiday for license branch personnel required to work on an election day holiday.

SECTION 2. IC 9-16-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The commission may develop a separate personnel system for employees of the commission who are assigned to be managers and employees of commission license branches. The system may establish the rights, privileges, powers, and duties of these employees, including a license branch pay scale and benefit package. If the commission does not develop and adopt a license branch personnel system, those employees are subject to the state personnel system under IC 4-15-1.8, **except as provided in IC 9-16-1-7.**"

Renumber all SECTIONS consecutively.

(Reference is to ESB 242 as printed March 22, 2005.)

STILWELL

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 242 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-16-1-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. (a) On the day before each general, municipal, primary, and special election day (as defined in IC 3-5-1-2), all full**

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service license branches must remain open from 8:30 a.m., local time, to 8:00 p.m., local time, solely for the purpose of issuing driver's licenses and state identification cards under IC 9-24.

(b) The commission shall:

- (1) designate another day as compensatory time off; or
- (2) authorize overtime pay;

for license branch personnel required to work on the day before an election day.

SECTION 2. IC 9-16-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The commission may develop a separate personnel system for employees of the commission who are assigned to be managers and employees of commission license branches. The system may establish the rights, privileges, powers, and duties of these employees, including a license branch pay scale and benefit package. If the commission does not develop and adopt a license branch personnel system, those employees are subject to the state personnel system under IC 4-15-1.8, **except as provided in IC 9-16-1-7.**"

Renumber all SECTIONS consecutively.

(Reference is to ESB 242 as printed March 22, 2005.)

STILWELL

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 242 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-16-1-7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7. On the Saturday following each general, municipal, primary, and special election day (as defined in IC 3-5-1-2), all full service license branches must remain open from 8:30 a.m., local time, to 5:30 p.m., local time. To the extent that these hours exceed the regular Saturday business hours of a license branch, the extra hours that a license branch must remain open are reserved solely for the purpose of issuing driver's licenses and state identification cards under IC 9-24.**

SECTION 2. IC 9-16-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The commission may develop a

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separate personnel system for employees of the commission who are assigned to be managers and employees of commission license branches. The system may establish the rights, privileges, powers, and duties of these employees, including a license branch pay scale and benefit package. If the commission does not develop and adopt a license branch personnel system, those employees are subject to the state personnel system under IC 4-15-1.8, **except as provided in IC 9-16-1-7.**"

Renumber all SECTIONS consecutively.

(Reference is to ESB 242 as printed March 22, 2005.)

STILWELL

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 242 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-8-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. Each circuit court clerk shall, not later than noon **on the second** Monday after the day the primary election is held, send to the election division by certified mail or hand delivery one (1) complete copy of all returns for presidential candidates. The clerk shall state the number of votes received by each candidate in each congressional district within the county.

SECTION 2. IC 3-8-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) This section applies to each political party that elects delegates to the party's state convention at a primary election.

(b) Each circuit court clerk, not later than noon **on the second** Monday after a primary election, shall furnish the election division with a complete list of all delegates elected at the primary election to the state convention of a political party. The list must include the address of each delegate and the United States congressional district in which each delegate resides.

SECTION 3. IC 3-8-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Each circuit court clerk, not later than noon on the **first second** Monday after a primary election conducted in a year in which a general election will be held, shall

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furnish the election division with a complete list of all:

- (1) candidates nominated; and
- (2) state convention delegates elected;

at the primary election.

(b) The list must include the address of each candidate and delegate and the United States congressional district in which each candidate and delegate resides.

SECTION 4. IC 3-10-1-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 33. (a) The county election board shall also make an additional duplicate showing the votes cast for each candidate required to file a declaration of candidacy with the election division under IC 3-8-2.

(b) The circuit court clerk shall, not later than noon on the **second** Monday following the primary election, send to the election division by certified mail or hand deliver to the election division one (1) complete copy of all returns for these candidates.

SECTION 5. IC 3-11.7-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) After the close of the polls, provisional ballots shall be counted as provided in this chapter.

(b) Notwithstanding IC 3-5-4-1.5 and any legal holiday observed under IC 1-1-9, all provisional ballots must be counted by not later than noon on the **second** Monday following the election.

SECTION 6. IC 3-12-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. Not later than noon **on the second** Monday after the county election board certifies the election results under section 9 of this chapter, the circuit court clerk shall furnish to the county chairman of each political party a copy of the statement.

SECTION 7. IC 3-12-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Whenever a candidate is elected to a local office that is commissioned by the governor under IC 4-3-1-5, the circuit court clerk shall prepare a statement under the clerk's seal specifying the number of votes received by each candidate for that office.

(b) The statement prepared under subsection (a) must also include the number of votes cast for and against the following:

- (1) The ratification of a state constitutional amendment submitted to the electorate.
- (2) The retention of a justice of the supreme court or a judge of the court of appeals or tax court.
- (3) Each candidate who was declared elected by the county

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election board under IC 3-12-4-9.

(c) The clerk shall send or hand deliver the statement to the election division not later than noon on the **second** Monday following election day.

(d) The election division shall tabulate the votes received under this section. Not later than the ~~second~~ **third** Friday after the election, the secretary of state shall issue a certificate certifying the following:

- (1) Each state constitutional amendment ratified or rejected.
- (2) Each justice or judge retained or removed.

(e) The election division shall provide a copy of a certificate described by:

- (1) subsection (d)(1) to the chief justice of the Indiana supreme court and the director of the office of code revision of the legislative services agency; and
- (2) subsection (d)(2) to the chief justice of the state.

(f) The election division shall provide a copy of all statements received under this section to the office.

SECTION 8. IC 3-12-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Not later than noon on the **second** Monday following an election for governor and lieutenant governor, each circuit court clerk shall prepare a certified statement under the clerk's seal showing the number of votes each candidate received. The clerk shall transmit the statement to the election division. The election division shall deliver:

- (1) the statement to the speaker of the house of representatives before the date described in subsection (b); and
- (2) a copy of each statement to the office.

(b) The house of representatives and the senate shall meet in joint convention not later than the date specified in Article 5, Section 9 of the Constitution of the State of Indiana for the commencement of the term of the governor and the lieutenant governor to hear the canvass of votes cast for governor and lieutenant governor.

(c) The joint convention shall act to resolve any:

- (1) tie vote, as required under Article 5, Section 5 of the Constitution of the State of Indiana; or
- (2) contest under Article 5, Section 6 of the Constitution of the State of Indiana.

(d) The joint rules that governed the house of representatives and senate before the general election govern the joint convention until those rules are amended as provided in those rules.

(e) After resolving any tie or contest, the presiding officer of the joint convention shall certify to the convention that the individuals

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receiving the most votes according to the canvass have been elected governor and lieutenant governor.

SECTION 9. IC 3-12-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Not later than noon on the **second** Monday following an election, each circuit court clerk shall prepare a certified statement under the clerk's seal of the number of votes received by each candidate for:

- (1) federal office;
- (2) state office;
- (3) legislative office; and
- (4) a local office for which a declaration of candidacy must be filed with the election division under IC 3-8-2.

(b) The clerk shall send the statements by certified mail, return receipt requested, or hand deliver the statements to the election division.

(c) The election division shall provide a copy of each statement to the office.

SECTION 10. IC 3-12-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) As soon as practical, but no later than noon on the **second** Monday following an election for a legislative office, each circuit court clerk shall:

- (1) prepare a certified statement under the clerk's seal specifying the number of votes received in the county by each candidate for legislative office; and
- (2) send the statement by certified mail, return receipt requested, or hand deliver the statement to the election division.

(b) The election division shall provide a copy of each statement to the office.

SECTION 11. IC 3-12-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A candidate who desires a recount of votes must file a verified petition no later than noon ~~seven (7)~~ **fourteen (14)** days after election day.

(b) A county chairman who is entitled to and desires a recount of votes must file a verified petition not later than noon ~~ten (10)~~ **seventeen (17)** days after election day.

(c) The petition must be filed in the circuit or superior court of each county in which is located a precinct in which the individual desires a recount.

SECTION 12. IC 3-12-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A candidate who desires to contest an election or a nomination under this chapter must file a verified petition with the circuit court clerk of the county that

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contains the greatest percentage of the population of the election district no later than noon ~~seven (7)~~ **fourteen (14)** days after election day.

(b) A county chairman who is entitled to and desires to contest an election or a nomination under this chapter must file a verified petition with the circuit court clerk of the county that contains the greatest percentage of the population of the election district not later than noon ~~ten (10)~~ **seventeen (17)** days after election day.

(c) A petition for a contest of an election in different municipalities, whether in the same court of the county or not, may not be consolidated.

SECTION 13. IC 3-12-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A candidate who desires:

(1) a recount of votes cast for a nomination or election subject to this chapter; or

(2) to contest a nomination subject to this chapter or the election of a state office other than governor or lieutenant governor; must file a verified petition with the election division not later than noon ~~seven (7)~~ **fourteen (14)** days after election day.

(b) A state or county chairman who is entitled to and desires to file a petition for a recount or contest under this chapter must file a verified petition with the election division not later than noon ~~ten (10)~~ **seventeen (17)** days after election day."

Renumber all SECTIONS consecutively.

(Reference is to ESB 242 as printed March 22, 2005.)

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